

OCT 05 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MONTA LAMONT HARRIS,

Defendant - Appellant.

No. 08-50289

D.C. No. 2:07-cr-00823-GAF

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Gary A. Feess, District Judge, Presiding

Submitted September 14, 2009^{**}

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

Monta Lamont Harris appeals from the 135-month sentence imposed following a guilty-plea conviction for conspiracy, in violation of 18 U.S.C. § 371; armed bank robbery, in violation of 18 U.S.C. §§ 2113(a)(d); and use of firearm

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

during a crime of violence, in violation of 18 U.S.C. § 924(c). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Harris contends that the district court erred by applying § 924(c)(1)(D)(ii) to run his sentences for bank robbery and conspiracy consecutive to an undischarged state prison sentence. The record reflects that the district court properly justified its choice of the sentence as a whole pursuant to 18 U.S.C. §§ 3584(b) and 3553(a). *See United States v. Fifield*, 432 F.3d 1056, 1064-66 (9th Cir. 2005). The district court did not procedurally err and the sentence imposed is reasonable. *See Gall v. United States*, 128 S. Ct. 586, 596-97 (2007); *see also United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008) (en banc).

AFFIRMED.